

### **REMARKS**

Applicant respectfully requests reconsideration. Claims 1-18 were previously pending in this application. By this amendment, Applicant is canceling claims 2, 17 and 18 without prejudice or disclaimer. Claims 1, 5, 6, and 8-16 are currently amended and claims 6, 14 and 15 have been withdrawn. As a result, claims 1, 3-5, 7-13 and 16 are pending for examination. No new matter has been added.

#### *A. Claim Rejections – 35 USC §112*

Claims 5, 7-13 and 16-17 stand rejected under 35 USC §112. Specifically, claim 5 stands rejected due to the inclusion of the terms “preferably” and “for instance”. Claim 8 stands rejected because the phrase “fixed virtually fittingly within a volume” as being unclear.

Applicants have herewith amended the claims so that they are now clear. Other clarifying amendments have been made to the claims.

#### *B. Claim Rejections – 35 USC §103*

Claims 1-5, 7-10, 13 and 16-17 stand rejected under 35 USC §103(a) as being unpatentable over US Publication 2004/0093814 to Cordts et al. in view of GB2,226,033 to Atkinson et al. Without acceding to the propriety of the rejection, the Applicants hereby amend the claims to define over the art of record.

Claim 1 has been amended to recite that the elastomeric foam is of a cross-linked ethylene vinyl acetate (EVA). Claim 1 has also been amended to include the recitations of claim 2, specifically that the crust-forming fire retardant materials is selected from poly ammonium phosphate and melamine phosphate. Claim 2 has been canceled. Claims 5 and 6<sup>1</sup>, which are now re-written into independent form, each include the same limitations.

Support for these amendments may be found, for example, on page 5, lines 3-4 and lines 22-24.

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<sup>1</sup> Claim 6 is withdrawn as being directed to a non-elected species. However, since claim 1 is believed to be allowable, claim 6 should be re-introduced into the application because claim 6 includes all of the limitations found in claim 1.

It is respectfully submitted that none of the prior art teaches or suggests the use of a fire-resistant material comprising an elastomeric foam of cross-linked ethylene vinyl acetate (EVA) along with the other features of the claims.

On page 8, of the current application, it is stated that a closed cell foam structure provides a better mechanical memory action so that the pressure within the feed-through, through compression of the foam parts, remains intact much longer than when a foam with an open pore structure is used. On pages 5 and 6 of the current application, using EVA, a material can be obtained that includes more than 80% of closed cells. Thus, by employing EVA, improved mechanical properties can be obtained. It is respectfully submitted that none of the prior art recognizes the use of EVA with its larger amount of closed cells for improving mechanical properties.

Accordingly, it is respectfully submitted that the claims should now be in condition for allowance as they define over the prior art of record.

### **CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance and a Notice of Allowance is respectfully requested. If the Examiner believes that minor clarifying amendments to the claim would be helpful, the Examiner is requested to call the undersigned at the telephone number listed below.

In the event the U.S. Patent and Trademark Office determines that an extension is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees, not already included, due in connection with the filing of this document to our Deposit Account No. 23/2825 under Docket No. D0641.70000US00 from which the undersigned is authorized to draw.

Dated: April 12, 200

Respectfully submitted,

By 

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